



2026:CGHC:19812

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 2051 of 2026

1 - Sylvester Toppo S/o Late Benedit Toppo Aged About 71 Years R/o M I G 540, Padmanabhpur Durg, Police Station Padmanabhpur Durg District Durg Chhattisgarh

... Petitioner(s)

versus

1 - Chhattisgarh State Power Distribution Company Limited (C S P D C L) A Company Incorporated Under The Relevant Provisions Of The Companies Act 1956 And A Power Sector Undertaking Of The State Government Of Chhattisgarh And A Successor Of Chhattisgarh State Electricity Board C.S.E.B. Having Its Registered Office At 4th Floor, Vidyut Sewa Bhawan, Daganiya Raipur Chhattisgarh

2 - Executive Engineer Chhattisgarh State Power Distribution Company Limited Durg, District Durg Chhattisgarh

3 - Chief Executive Engineer Chhattisgarh State Power Distribution Company Limited Durg, District Durg Chhattisgarh

... Respondent(s)

(Cause Title is taken from CIS System)

For Petitioner : Ms. Sweksha Sharma, Advocate

For Respondents : Mr. Mayank Chandrakar, Advocate



Hon'ble Mr. Justice Amitendra Kishore Prasad

Order on Board

29/04/2026

1. The petitioner has filed this writ petition seeking following reliefs :

“10.1 That, this Hon'ble Court may kindly be pleased to issue an appropriate order or direction directing the respondents to refund an amount of Rs. 1,17,136/- to the petitioner.

10.2 That, this Hon'ble Court may kindly be pleased to Direct the respondents to pay interest @ 18% per annum (or such rate as deemed fit) from 09.12.2010 till the date of actual payment;

10.3 That, this Hon'ble Court may kindly be pleased to grant any other relief, which it deems fit and proper”

2. Facts of the case, as projected in the writ petition, are that the petitioner is a bona fide domestic consumer of electricity holding connection No. 100011446656-04-025468 provided by the respondent company and has consistently paid all dues without default. On 29.11.2010, officials of the respondent department conducted an inspection at the petitioner's premises and alleged that the electricity meter had been tampered with, imputing unauthorized use and theft of electricity. On the basis of such inspection, a provisional assessment of Rs. 1,17,136/- was raised



against the petitioner. The petitioner contends that the said demand was illegal and arbitrary, and that he was compelled to deposit the amount on 09.12.2010 under coercion and threat of disconnection, without admitting any liability. Subsequently, criminal proceedings were initiated against the petitioner under Section 135 of the Electricity Act, 2003 before the Court of Special Judge (Electricity Act), Durg, registered as Special Case No. 227/2015. During trial, the prosecution relied upon inspection reports, seizure memos, and laboratory testing of the meter, which were seriously disputed by the petitioner on grounds of procedural irregularities and lack of credibility. Upon appreciation of evidence, the learned Special Judge, vide judgment dated 30.09.2021, acquitted the petitioner by extending benefit of doubt, holding that the prosecution failed to establish the charges beyond reasonable doubt and that the inspection, seizure, and testing process was unreliable. Aggrieved by the acquittal, the respondent department preferred an acquittal appeal before this Court, which also came to be dismissed vide order dated 09.10.2025, thereby affirming the acquittal and giving finality to the findings recorded by the Trial Court. Despite such final adjudication in favour of the petitioner, the respondents failed to refund the amount of Rs. 1,17,136/-. The petitioner issued a legal notice dated 04.02.2026 seeking refund along with interest; however, the same was rejected by the respondents vide reply dated 20.02.2026 on the ground that the amount constituted civil liability.



3. Learned counsel for the petitioner submits that a case under Section 135 of the Electricity Act was registered against the petitioner alleging theft of electricity, pursuant to which an amount of Rs. 1,17,136/- was imposed and recovered from him. It is submitted that during the course of trial, the petitioner was acquitted by the competent court by extending benefit of doubt, and the prosecution case was found to be unreliable and not proved in accordance with law. It is further submitted that the respondent department preferred an acquittal appeal against the said judgment; however, the same has also been dismissed by this Hon'ble Court, thereby affirming the acquittal and conclusively establishing that the allegation of electricity theft against the petitioner was not proved. In such circumstances, it is contended that the very basis of the demand and recovery no longer survives, and the respondents have no authority in law to retain the amount recovered from the petitioner. Learned counsel argues that the retention of such amount is arbitrary, amounts to unjust enrichment, and is violative of the petitioner's constitutional rights. It is thus submitted that, in view of the petitioner's acquittal having attained finality, the petitioner is legally entitled for refund of the amount imposed and recovered from him, along with appropriate interest.
4. Learned counsel appearing for the respondents opposes the submissions advanced on behalf of the petitioner and contends



that the claim for refund is misconceived and not tenable in law. It is submitted that although the petitioner was acquitted in the criminal proceedings initiated under Section 135 of the Electricity Act, such acquittal does not ipso facto entitle the petitioner to seek refund of the assessed amount. Learned counsel submits that the respondent department has not approached any further court against the order of acquittal passed in favour of the petitioner and the said acquittal has attained finality; however, it is contended that the same is confined to criminal liability alone and does not have any bearing on the civil liability determined against the petitioner. It is further argued that the amount of Rs. 1,17,136/- was assessed and recovered towards civil liability arising out of unauthorized use of electricity, which is independent of the outcome of the criminal prosecution. Merely because the petitioner has been acquitted by giving benefit of doubt, it cannot be construed that the assessment made by the department automatically becomes invalid or refundable. Learned counsel also submits that the payment made by the petitioner was in accordance with the assessment proceedings carried out under the provisions of the Electricity Act and the applicable regulations, and therefore, the respondents are justified in retaining the said amount. On these grounds, it is urged that the petition being devoid of merit is liable to be dismissed.



5. Having heard learned counsel for the parties at length and upon perusal of the material available on record, this Court finds that the core issue for consideration is whether the respondents are justified in retaining the amount of Rs. 1,17,136/- recovered from the petitioner despite his acquittal from the charge under Section 135 of the Electricity Act, 2003.
6. It is not in dispute that the petitioner was subjected to criminal prosecution on the allegation of theft of electricity and, pursuant thereto, the aforesaid amount was assessed and recovered from him. It is also an admitted position that the competent criminal court, after full-fledged trial and appreciation of evidence, acquitted the petitioner vide judgment dated 30.09.2021 by holding that the prosecution failed to prove the charge beyond reasonable doubt and that the inspection and seizure proceedings suffered from serious procedural irregularities. The said acquittal has further been affirmed by this Court in acquittal appeal vide order dated 09.10.2025, thereby attaining finality.
7. In the considered opinion of this Court, once the very foundation of the allegation, namely theft of electricity, has been disbelieved by the competent court of law and such finding has attained finality, the substratum of the demand raised against the petitioner ceases to exist. The contention of the respondents that the amount constitutes an independent civil liability cannot be accepted in the facts of the present case, inasmuch as such



liability is intrinsically linked with the allegation of unauthorized use/theft, which has not been established in accordance with law. Further, the material on record reflects that the amount was deposited by the petitioner under coercive circumstances, without adjudication of liability through a fair and legally sustainable process. The continued retention of such amount, despite the petitioner's acquittal, would amount to unjust enrichment on the part of the respondents and cannot be sustained.

8. Considering the aforesaid aspects of the matter, since the concerned court has acquitted the petitioner from the charges levelled against him for theft of electricity, the amount of Rs. 1,17,136/- which has been deposited by the petitioner is liable to be refunded.
9. Accordingly, the writ petition is **allowed**. The respondent department is directed to refund the amount of Rs. 1,17,136/- to the petitioner in accordance with law within a reasonable period from the date of receipt of a certified copy of this order.

No order as to costs

sd/-

(Amitendra Kishore Prasad)
Judge

Shayna